

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

168  
United States District Court  
Southern District of Texas  
FILED

JUL 01 1998

Michael N. Milby, Clerk of Court

**EDWARD ALCALA, et al.**  
**Plaintiffs**

**v.**

**ALEX PEREZ, in his official capacity**  
**as Sheriff of Cameron County, Texas and**  
**CAMERON COUNTY, TEXAS**  
**Defendants**

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**CIVIL ACTION NO. B-96-203**

**DEFENDANTS' ANSWER TO**  
**PLAINTIFF'S FIRST AMENDED ORIGINAL COMPLAINT**

Cameron County (one and the same as Alex Perez in his official capacity, hereinafter referred to as the "County" or "Cameron County") for its First Amended Answer to Plaintiff's First Amended Original Complaint states:

**DEFENDANTS' ANSWER**

1. In response to Paragraph 1 of Plaintiff's First Amended Original Complaint, Defendants deny the second and fourth sentences. Defendants further deny that Plaintiffs are entitled to wages and overtime or liquidated damages. If proper consents to sue have been obtained, then the action may be brought under §216(b) of the Fair Labor Standards Act. Defendants admit that this is an action under the Fair Labor Standards Act and that employees are to be paid for properly reported hours worked.

2. In response to Paragraph 2 of Plaintiff's First Amended Original Complaint, Defendants admit the Court has jurisdiction as stated.

3. In response to Paragraph 3 of Plaintiff's First Amended Original Complaint, Defendants are

without sufficient knowledge to admit or deny whether the listed individuals have properly completed consents to sue thereby making them parties to this lawsuit.

4. In response to Paragraph 4 of Plaintiff's First Amended Original Complaint, Defendants Lucio and Perez deny they are "employers" within the meaning of the Fair Labor Standards Act.

5. In response to Paragraph 5 of Plaintiff's First Amended Original Complaint, Defendants deny that all Plaintiffs are presently employed by Defendant Cameron County. Some of the Plaintiffs are exempt from the overtime provisions of the Fair Labor Standards Act under Section 213 and all of the Plaintiffs are partially exempt from the Fair Labor Standards Act's overtime requirements by virtue of Section 207(k) of the Fair Labor Standards Act.

6. In response to Paragraph 6 of Plaintiffs' First Amended Original Complaint, Defendants deny each and every allegation.

7. In response to Paragraph 7 of Plaintiffs' First Amended Original Complaint, Defendants deny each and every allegation.

8. In response to Paragraph 8 of Plaintiffs' First Amended Original Complaint, Defendants deny the first sentence, and are without sufficient knowledge to admit or deny the second sentence, but state that County's records accurately reflect the hours submitted by each Plaintiff over each Plaintiff's signature.

9. In response to Paragraph 9 of Plaintiffs' First Amended Original Complaint, Defendants deny each and every allegation.

10. In response to Paragraph 10 of Plaintiffs' First Amended Original Complaint, Defendants deny each and every allegation.

11. In response to Paragraph 11 of Plaintiffs' First Amended Original Complaint, Defendants deny



each and every allegation.

12. In response to Paragraph 12 of Plaintiffs' First Amended Original Complaint, Defendants deny this allegation.

13. In response to Paragraph 13 of Plaintiffs' First Amended Original Complaint, Defendants deny this allegation.

14. In response to Paragraph 14 of Plaintiffs' First Amended Original Complaint, Defendants either deny the allegations or do Not have sufficient facts to admit or deny the allegations at this time, in which event Defendants deny them in their entirety.

15. In response to Paragraph 15 of Plaintiffs' First Amended Original Complaint, Defendants deny this allegation.

16. In response to Paragraph 16 of Plaintiffs' First Amended Original Complaint, Defendants deny this allegation in its entirety.

17. In response to Paragraph 17 of Plaintiffs' First Amended Original Complaint, Defendants deny each and every allegation.

18. In regard to Plaintiffs' prayer for relief, Defendants deny Plaintiffs are entitled to any relief.

### **DEFENSES**

19. Defendants allege that any such acts and omissions were made in good faith and Defendants had reasonable ground for believing that any such alleged acts or omissions were not in violation of the Fair Labor Standards Act.

20. Certain Plaintiffs were employed and/or are currently employed in either a bona fide executive and/or administrative capacity during the times alleged in the Original Complaint and therefore the provisions of the Fair Labor Standards Act upon which these Plaintiffs do not apply.

21. Certain claims in the Original Complaint are barred by either the two or three year statute of limitations.

22. Defendants specifically deny any willful violation of the Fair Labor Standards Act, and Plaintiffs are not entitled to liquidated damages.

23. Plaintiffs employed as law enforcement personnel by the County are partially exempt from overtime or "compensatory" pay under Section 7(k) of the Fair Labor Standards Act.

24. Plaintiffs' salaries compensated them for all hours up to the 171 hours overtime threshold and Plaintiffs have been compensated at a rate of at least time and a half for all hours worked in excess of the 171 hours overtime threshold.

WHEREFORE, Defendants pray Plaintiffs taken nothing by this suit except their costs and that Defendants recover such relief as they may be entitled, including costs and attorney fees.

Respectfully,

For Cameron County  
Cameron County Civil Legal Department  
964 East Harrison Street  
Brownsville, Texas 78578  
(956) 550 1345  
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BY: 

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CERTIFICATE OF SERVICE

I, Richard O. Burst do hereby certify that a true and correct copy of the foregoing Answer has been mailed to Plaintiff's Attorney, James R. Herrmann, P.O. Box 2541, Harlingen, Texas 78550-2541 on this 2<sup>nd</sup> of July, 1998.

  
Richard O. Burst